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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-437

11 **THOMAS PLUMA DE ASIS**
12 **1346 Via Del Rio**
13 **Corona, CA 92882**

DEFAULT DECISION AND ORDER

14 **Registered Nurse License No. 685412**

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about February 15, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs (Board); filed Accusation No. 2012-437 against Thomas Pluma De Asis
(Respondent) before the Board. (Accusation attached as Exhibit A.)

20 2. On or about August 3, 2006, the Board issued Registered Nurse License No. 685412
21 to Respondent. The Registered Nurse License expired on January 31, 2010, and has not been
22 renewed.

23 3. Business and Professions Code section 118 states, in pertinent part:

24 (b) The suspension, expiration, or forfeiture by operation of law of a
25 license issued by a board in the department, or its suspension, forfeiture, or
26 cancellation by order of the board or by order of a court of law, or its surrender
27 without the written consent of the board, shall not, during any period in which it
28 may be renewed, restored, reissued, or reinstated, deprive the board of its authority
to institute or continue a disciplinary proceeding against the licensee upon any
ground provided by law or to enter an order suspending or revoking the license or
otherwise taking disciplinary action against the licensee on any such ground.

1 4. On or about February 15, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 2012-437, Statement to Respondent, Notice of Defense,
3 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
4 and 11507.7) at Respondent's address of record which, pursuant to California Code of
5 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board,
6 which was and is: 1346 Via Del Rio, Corona, CA 92882.

7 5. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124. On or about March 28, 2012, the aforementioned documents were returned by the U.S.
10 Postal Service marked ""Not deliverable as addressed."

11 6. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts
14 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 2012-437.

18 8. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

22 9. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 2012-437, finds
27 that the charges and allegations in Accusation No. 2012-437, are separately and severally, found
28 to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$16,135.00 as of March 20, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Thomas Pluma De Asis has subjected his Registered Nurse License No. 685412 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Respondent is subject to disciplinary action under section 2761, subdivision (a), for violation of section 726 in that he engaged in sexual abuse of a patient.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 685412 issued to Respondent Thomas Pluma De Asis is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on November 23, 2012.

It is so ORDERED October 24, 2012.

Raymond Mallet

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

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Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-437**

12 **THOMAS PLUMA DE ASIS**
13 **1346 Via Del Rio**
14 **Corona, CA 92882**

A C C U S A T I O N

15 **Registered Nurse License No. 685412**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about August 3, 2006, the Board issued Registered Nurse License Number
23 685412 to Thomas Pluma De Asis (Respondent). The Registered Nurse License expired on
24 January 31, 2010, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY AUTHORITIES

7. Section 726 of the Code states:

"The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

"This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship."

8. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct,"

COST RECOVERY

9. Section 125.3 of the Code provides, in pertinent part, that the Director may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(Sexual Abuse of a Patient)

10. Respondent is subject to disciplinary action under section 2761, subdivision (a), for violation of section 726 in that he engaged in sexual abuse of a patient. The circumstances are as follows:

11. On or about January 30, 2008, Respondent was working as a registered nurse, and assigned to work the night shift at the Intensive Care Unit (ICU) in West Anaheim Medical Center located in Anaheim, California. At about 11:45 p.m., patient F.N., age 41, was transferred from the Emergency Room to ICU for possible infection or stroke. Respondent was assigned to care for patient F.N. At the time of her admission to the ICU, patient F.N. was wearing only a hospital gown, and her arms were restrained. She was both drowsy and restless. There are no nursing notes recorded between 11:45 p.m., the time of her admission to the ICU, until 5:56 a.m. the morning of January 31, 2008; a period of over six hours.

12. At the time of his initial assessment of patient F.N. at 11:45 p.m., Respondent directed patient F.N.'s daughter who was present at the time to leave the room. Respondent told patient F.N.'s daughter that she could not be in the ICU. When patient F.N.'s daughter left the room and went home, Respondent and patient F.N. were alone in the hospital room. Respondent then gave patient F.N. a pill. Within about five minutes of taking that pill, patient F.N. felt sedated. Soon thereafter, Respondent returned to patient F.N.'s hospital room, lifted her hospital gown, and attempted to fondle her genitals. However, patient F.N. had a catheter. Respondent next fondled patient F.N.'s breasts. Respondent then fondled patient F.N.'s breasts and genitals at the same time. While patient F.N. felt sedated, she was never unconscious. Respondent then pulled down his pants, and put his penis in patient F.N.'s right hand which was still restrained. Respondent masturbated himself using patient F.N.'s hand to do so. After ejaculating, Respondent used a paper towel from inside the hospital room to clean himself and patient F.N. After he was finished, he untied patient F.N. restraints, said "Thank you" to her, and provided F.N. with a sticky note with his telephone number on it.

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13. On February 6, 2008, patient F.N. made a pre-text telephone call to Respondent's cell phone using the telephone number he provided her with the assistance of the Anaheim Police Department. During the recorded call, Respondent admitted that he touched patient F.N., and asked her if she enjoyed it. After he was interviewed by the Anaheim Police Department, Respondent fled the country.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Department of Consumer Affairs issue a decision:

1. Revoking or suspending Registered Nurse License Number 685412 issued to Thomas Pluma De Asis;

2. Ordering Thomas Pluma De Asis to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: February 15, 2012

Louise R. Bailey
Louise R. Bailey, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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